

REMARKS

Claims 1-21 are currently pending in the application. Claims 4, 6-8, 10-12 and 15-21 have been withdrawn from consideration.

Claims 1-3, 9, 13 and 14 stand rejected under 35 U.S.C. §102 as allegedly anticipated by WO 95/03981 (Large). Claim 5 stands rejected under 35 U.S.C. §103 as obvious over Large in view of U.S. Patent No. 2,081,152, to Replogle et al. (Replogle), in view of U.S. Patent No. 2,166,513 (Waters), and further in view of JP2001-253452 (Morimoto).

Reconsideration of the rejection of claims 1-3, 5, 9, 13 and 14 is requested.

Claim 1 has been amended to characterize the container as detectably changed from the unopened state into the opened state. The closure system is characterized as being in its first state and operatively engaged with the container that is in its opened state. It is further clarified that the closure system, upon being changed from its first state into its second state, permits access to the container sufficiently to allow the alcoholic beverage to be dispensed from the container. The closure system is constructed so that a change of state of the closure system can be detected by inspection of the closure system.

In essence, what claim 1 sets forth is a combination of components, each in a specific state, the utility of which can be understood with respect to one particular and exemplary environment. The container may be a bottle with wine that has a cork and a seal that are both in place with the container in an unopened state, thereby confining the wine to the storage space defined by the container. Once an individual changes the container from its unopened state into its open state, it is detectable that this change has

occurred. The closure system is then operatively engaged with the container that has been placed into the opened state and, as claimed, is in its first state. In the first state for the closure system, the contents of the container is precluded from being dispensed. By changing the closure system from its first state into its second state, the wine is allowed to be dispensed. This change in state of the closure system (from first to second) can be detected by inspection.

Consequently, an open bottle of wine can be operatively engaged by the closure system that is placed in the first state, as at a restaurant. As a result, this combination precludes dispensing of the wine. So long as anyone, such as a law enforcement officer, observes the closure system remaining in the first state, it is evident that the wine from the closure has not been dispensed since the time the closure system was operatively engaged with the bottle and placed in the first state. Consequently, the bottle is effectively "re-sealed" in a manner whereby any attempt to access the contents thereof would be evidenced by a detectable change in the closure system.

This offers a safeguard to anyone wishing to transport an opened, partially consumed, bottle of wine as in a vehicle, whereas transportation of the bottle might otherwise be in violation of laws that prohibit open containers of alcohol in moving vehicles.

It is significant to note that as claim 1 is amended, it requires that the container is in the opened state and the closure is in its first state operatively engaged with the container in the opened state. This combination results in effectively a "re-sealed" container.

Large teaches only the sealing of a container within an outer sheath. The sheath is described to perform multiple functions, among which are light shielding and tamper proofing. Based on the disclosure on page 3 of Large, it is clear that the sheath is intended to be used only on an unopened bottle. There is no teaching in Large of using such a sheath in a corresponding first state with an opened container or bottle.

Large is deficient in two respects as to teaching, or making obvious, the combination of claim 1, as amended. The fact that the sheath in Large is required to evidence tampering with the containers makes it clear that it is not contemplated by Large that the container be constructed so that it is detectably changed from the unopened state into the open state. Otherwise, the bottle itself could be easily observed to investigate for tampering.

Additionally, whereas applicant's claimed combination is directed to the handling of an already opened container, Large is concerned only with a sheath on an unopened container. Large is not concerned with a practical "re-sealing" system.

It is respectfully submitted that the only motivation for arriving at the combination in claim 1 is applicant's own disclosure. There is nothing that is in the cited art that would motivate one skilled in the art to arrive at the combination claimed, absent the impermissible use of hindsight.

Claims 2, 3, 5, 9, 13 and 14 depend cognately from claim 1 and recite further significant limitations to further distinguish over the cited art.

The Examiner relies additionally on Replogle, Waters, and Morimoto in rejecting claim 5. While these secondary references disclose, independently, some structure

corresponding to that in claim 5, these references do not alone, or in any combination with each other and/or Large, teach or make obvious the structure in claim 1, upon which claim 5 is based.

Reconsideration of the rejection of claims 1-3, 5, 9, 13 and 14 and allowance of the case are requested.

Respectfully submitted,

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